

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JOHN BAHR, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0127

Case Type: PA

DECISION NO. 36422

Appearances:

Jeffrey Wolff, 427 N. High Street, Randolph, Wisconsin, appearing on behalf of John Bahr.

Michael Gentry, Department of Administration, 101 E. Wilson Street, 10th Floor, Post Office Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On March 16, 2016, John Bahr filed an appeal with the Wisconsin Employment Relations Commission pursuant to § 230.44(1)(c), Stats., asserting that he had been suspended for one day without just cause by the State of Wisconsin Department of Corrections. The Commission appointed Danielle L. Carne to act as hearing examiner. A hearing was held on May 25, 2016, in Fox Lake, Wisconsin. The parties submitted post-hearing written arguments, the last of which was received on August 17, 2016, at which time the record was closed.

On September 12, 2016, Examiner Carne issued a proposed decision affirming the suspension. No objections to the proposed decision were filed and the matter became ripe for Commission consideration on October 13, 2016.

Being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. John Bahr is employed as a Correctional Sergeant by the State of Wisconsin Department of Corrections at Fox Lake Correctional Institution (“FLCI”), and he had permanent status in class at the time of his October 30, 2015 discipline.

2. On July 31, 2015, Bahr was directed by his supervisor to write a conduct report, and Bahr did not follow the directive.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction to review this matter pursuant to § 230.44(1)(c), Stats.

2. The State of Wisconsin Department of Corrections had just cause within the meaning of § 230.34(1)(a), Stats., to discipline John Bahr on October 30, 2015, with a one-day suspension.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The one-day suspension issued to John Bahr is affirmed.

Signed at the City of Madison, Wisconsin, this 15th day of November 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

MEMORANDUM ACCOMPANYING DECISION AND ORDER

On July 31, 2016, Bahr was on duty as a unit supervisor at FLCI, and he was approached by an inmate in the unit who reported he had been punched in the face by his cellmate. As a result of this allegation, Bahr appropriately placed a call to summon a supervisor to the scene. A Captain Lockwood (and one other supervisor) responded to Bahr's call, briefly discussed the situation with Bahr and each of the inmates, and had the inmates placed in temporary lockup. During this short discussion it was established that Bahr actually had not been present during the alleged altercation—he only had been told about it by the inmate.

Shortly thereafter on that same day, Lockwood directed Bahr to write conduct reports regarding the incident. Not having witnessed the altercation, and knowing that a full investigation had not yet been conducted, Bahr indicated to Lockwood that he lacked sufficient information to write conduct reports. During the course of a single conversation, Lockwood directed Bahr several additional times to write the reports. Bahr indicated each time that he could not do so due to lack of information, and Lockwood ultimately wrote the reports. A few days later, after having participated in an investigation into the incident, Bahr wrote two additional conduct reports. Nevertheless, Bahr received a one-day suspension for having failed to follow Lockwood's original directive.

The record before us is undisputed as to the following: Lockwood had the supervisory authority to direct Bahr to write conduct reports, even though scant information was available; Bahr understood Lockwood's directive and deliberately did not follow it; and Bahr's only reason for not writing the reports was that he believed doing so was premature. Maybe Bahr was correct with regard to that last point. Nevertheless, as we have indicated in no uncertain terms in the recent past, it is simply unacceptable for an employee to disobey employer instructions. *Roberts v. DOC*, Dec. Nos. 35025-A, 35063-A (WERC, 01/2016). Bahr's failure here to follow Lockwood's directive was insubordination and an appropriate basis for the level of discipline issued.

Signed at the City of Madison, Wisconsin, this 15th day of November 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner